

Article - Health - General

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§19-706.1.

(a) Subject to this section, the provisions of Title 9, Subtitle 2 of the Insurance Article regarding the rehabilitation and liquidation of insurers are applicable to health maintenance organizations.

(b) (1) Subject to paragraph (2) of this subsection, any rehabilitation or liquidation of a health maintenance organization shall be deemed to be the rehabilitation or liquidation of an insurer and shall be conducted under the supervision of the Commissioner under the law governing the rehabilitation or liquidation of insurers.

(2) The provisions of §§ 9-224 and 9-225 of the Insurance Article do not apply to the rehabilitation or liquidation of a health maintenance organization.

(c) The Commissioner may apply for an order directing the Commissioner to rehabilitate or liquidate a health maintenance organization:

(1) Upon any one or more grounds set out in Title 9, Subtitle 2 of the Insurance Article; or

(2) When in the Commissioner's opinion the continued operation of the health maintenance organization would be hazardous either to its members or to the people of this State.

(d) (1) In addition to the Commissioner's authority under Title 9, Subtitle 2 of the Insurance Article, the Commissioner as a rehabilitator of a health maintenance organization may, subject to approval by a court:

(i) Change premium rates and other terms of an individual or group contract;

(ii) Terminate or change the terms of:

1. Provider contracts; or

2. Contracts with participating entities for the provision of administrative, financial, or management services; and

(iii) Negotiate and, if the assuming health maintenance organization agrees:

1. Transfer the coverage obligations of the impaired health maintenance organization to an assuming health maintenance organization; and

2. Assign the provider contracts of the impaired health maintenance organization to an assuming health maintenance organization.

(2) Before taking any action under paragraph (1)(ii) of this subsection, the Commissioner shall consider:

(i) The interests of providers and other participating entities under contract with the impaired health maintenance organizations; and

(ii) The viability of continuing the health plan.

(3) If a court under paragraph (1)(ii) of this subsection approves a change to the terms of a contract that diminishes the compensation of a provider or a participating entity providing administrative, financial, or management services, the change may not:

(i) Be effective for more than 60 days; and

(ii) Except by mutual consent, be renewed or extended.

(e) In addition to the Commissioner's authority under Title 9, Subtitle 2 of the Insurance Article, the Commissioner as a liquidator may, subject to approval by a court:

(1) Contract with a solvent health maintenance organization or other appropriate entity to operate the insolvent health maintenance organization, including the provision of medical care, on a short-term basis;

(2) Operate the insolvent health maintenance organization, which may include compensating health care providers in accordance with the terms of the health care provider's contract with the insolvent health maintenance organization;

(3) (i) Direct all other health maintenance organizations that participated in an open enrollment process with the insolvent health maintenance organization at a group's last regular open enrollment period to offer enrollees or subscribers of the insolvent health maintenance organization a 30-day open enrollment period to begin on the date of the insolvency; and

(ii) Require each health maintenance organization directed to offer enrollees or subscribers of the insolvent health maintenance organization a 30-day open enrollment period to offer the enrollees of the insolvent health maintenance organization the same coverage and rates that it offered the enrollees at the last regular open enrollment period;

(4) (i) Equitably allocate the insolvent health maintenance organization's group contracts of those groups not offered other coverage under item (3) of this subsection, among all health maintenance organizations operating within a portion of the insolvent health maintenance organization's service area, except that before allocating the group contracts under this item, the Commissioner shall consider the health care delivery system and financial resources of all possible successor health maintenance organizations;

(ii) Require each health maintenance organization allocated a group or groups under item (i) of this item to offer the group or groups the health maintenance organization's existing coverage which is most similar to each group's coverage with the insolvent health maintenance organization at rates determined in accordance with the successor health maintenance organization's existing rate methodology; and

(iii) Ensure that any enrollee or subscriber whose group coverage had terminated prior to the date of the insolvency and who converted their group coverage into individual conversion coverage is offered the same conversion coverage that is offered by the successor health maintenance organization to persons converting from the group of which the enrollee or subscriber had been a former member;

(5) (i) Equitably allocate the insolvent health maintenance organization's nongroup individual contracts of those nongroup individuals not offered other coverage under item (3) of this subsection, among all health maintenance organizations operating within a portion of the insolvent health maintenance organization's service area, except that before allocating the nongroup individual contract or contracts under this item, the Commissioner shall consider the health care delivery system and financial resources of all possible successor health maintenance organizations; and

(ii) Require each health maintenance organization allocated a nongroup individual or individuals under item (i) of this item to offer the nongroup individual or individuals the health maintenance organization's existing coverage which is most similar to the nongroup individual's coverage with the insolvent health maintenance organization at rates determined in accordance with the successor health maintenance organization's existing rate methodology; and

(6) Take any other action deemed necessary by the Commissioner.

(f) The claims and expenses of health care providers incurred by the Commissioner, as a receiver, in continuing plan benefits as provided in the insolvent health maintenance organization's plan of insolvency adopted under § 19-710(q) of this subtitle shall:

(1) Be considered expenses for the administration of the receivership;
and

(2) Have priority over all other expenses.

(g) In the event of the liquidation or rehabilitation of a health maintenance organization under this section:

(1) Members of the health maintenance organization shall have the same priority of claims as provided in § 9-227(c) of the Insurance Article; and

(2) For claims for health care services rendered to members before an order of receivership has been entered, the following health care providers shall immediately follow in priority claims of the members of the health maintenance organization:

(i) Health care providers under contract with the health maintenance organization;

(ii) Health care providers that rendered health care services to members of the health maintenance organization upon referral from a health care provider under contract with the health maintenance organization; and

(iii) A hospital.

(h) (1) A health care provider may not assert a claim of subrogation against:

(i) A member of an insolvent health maintenance organization; or

(ii) Against any individual, organization, or government agency which has made payments to the health maintenance organization on behalf of a member.

(2) Notwithstanding paragraph (1) of this subsection, a health care provider may assert any claim it may have against the receiver of the insolvent health maintenance organization.

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